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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/342,719 | 06/29/1999 | DONALD C. ROE | 7590Q | 6995 |

27752 7590 10/31/2006

THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION
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CINCINNATI, OH 45224

EXAMINER

ANDERSON, CATHARINE L

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

3761

DATE MAILED: 10/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/342,719

NT
Applicant(s)

ROE ET AL.

Examiner

C. Lynne Anderson

Art Unit

3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 28-32, 34-37, 40-44, 47, 48 and 58-60 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 28-32, 34-37, 40-44, 47, 48 and 58-60 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

Applicant's arguments filed 11 August 2006 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Hashimoto et al. (5,681,297) and Jones et al. (5,482,714).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 28-32 and 58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hashimoto et al. (5,681,297).

Hashimoto discloses all aspects of the claimed invention with the exception of the waste contamination area and mass values. Hashimoto discloses a disposable article, as shown in figure 8, comprising a responsive system including a sensor 109 that detects an input when fecal waste is excreted and an actuator 108b that delivers a composition when the sensor detects an input, as disclosed in column 3, lines 42-60. Hashimoto further discloses a method of enhancing removability of waste by providing and using the article, as disclosed in column 2, lines 1-12.

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It would have been obvious to one of ordinary skill in the art at the time of invention to provide the composition of Hashimoto with a Waste Contamination Area of less than 15 cm² and a Waste Contamination Mass of less than 14 mass units, since it has been held that where the general conditions of the claim are disclosed in the prior art (i.e. the desire to enhance the removability of and to remove fecal waste), finding the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

Claims 34-37, 40-44, 47-48, and 59-60 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hashimoto et al. (5,681,297) in view of Jones et al. (5,482,714).

Hashimoto discloses all aspects of the claimed invention with the exception of the composition comprising a feces modifying agent, a skin care composition, and a thickener. The composition of Hashimoto is provided to cleanse fecal waste from the wearer of the article, as disclosed in column 3, lines 54-60.

Jones teaches a composition for cleansing skin that has contacted fecal waste, the composition comprising a silicone oil (see column 4, lines 35-44), Al₂O₃ (see column 3, line 26), and a thickener (see column 3, lines 13-14). The composition provides a skin care benefit and protects the skin from irritation caused by fecal waste, as disclosed in column 1, lines 49-56.

It would therefore be obvious to one of ordinary skill in the art at the time of invention to include a skin care composition in the cleansing composition of Hashimoto, as taught by Jones, to protect the skin from irritation by fecal waste.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Lynne Anderson whose telephone number is (571) 272-4932. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tanya Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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WA

cla

October 26, 2006

A handwritten signature in black ink, appearing to read "Tatyana", with a long, sweeping horizontal stroke extending to the right.

TATYANA MELNIKOVA
SUPERVISORY PRIMARY EXAMINER

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